

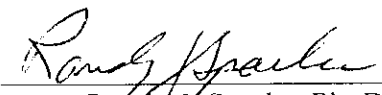
ENSLAVED SUBJECTIVES:
MASCULINITIES AND POSSESSION THROUGH THE LOUISIANA SUPREME
COURT CASE, *HUMPHREYS V. UTZ (UNREPORTED)*

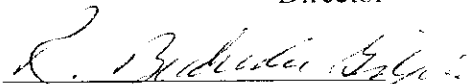
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OF
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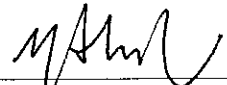
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When blackness was ascribed to and performed by the unfree of the plantation South, it provided for a torturous level of subjugation, and fear of the same, in one's daily life. For every black slave man who longed to escape forever the searing pain of the cowhide on his raw skin, the taste of deep red blood gurgling from his coughing, spitting, screaming mouth, the constant tearing, breaking, and scarring of his battered and mutilated body, and the fragmentation of his spirit, his identity, and his gendered sense of self, he could do so in one of three ways. He could convince his master, somehow, to legally free his body from utter subjection, but all Southern states would eventually disallow this route to official manhood. Louisiana came under the fold in 1857. Or, he could demand his own freedom through taking possession of himself—body and mind; he would have to run far away into the uncertain world of black quasi-freedom in antebellum America. In the face of these odds, he would have to endure vicious dogs with sharp teeth and white men with the legal standing, guns, and shackles to render him once again unfree and not his own; often these pursuers were one in the same. But, if all else had failed, he could die.

Ginger Pop, an enslaved black man on a Louisiana cotton plantation in the 1850s, sought regularly and desperately for the second route. This story begins as his, but it becomes something larger, and more meaningful, when put in context with those of several other men, black and white. Only recorded through the transcript of the case,

Humphreys v. Utz, can we see how this little known drama played out on the plantation's representative stages: the swamps, cotton fields, cabins, and big house of the Burkland Plantation in Madison Parish, Louisiana, the courtroom and juror rooms of the parish's courthouse in the town of Richmond, and the chambers of Justice Alexander MacKenzie Buchanan at the Louisiana Supreme Court in New Orleans. An overseer and two slave owners played the other leading roles, while a handful of slaves, lawyers, judges, witnesses, and jurors—half of whom were overseers too, all played supporting parts.¹

In this shadow, our story becomes about the conflicts of men on the stages of the antebellum plantation South—places where the plantation and its gendered cultures of hegemonic masculinities defined social, cultural, and legal hierarchies of possession, ownership, and subjection.² On the Burkland Plantation's stages, white and black men

¹ Judith Schaefer, ed., "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," *Chicago-Kent Law Review* 68, no. 3 (1992): 1313–40; In 1992, the transcript of *Humphreys v. Utz*, Unreported (Louisiana Supreme Court 1855), was edited by Judith Schaefer and published in the *Chicago-Kent Law Review*. For the purposes of this essay, when the transcript is cited, it will refer to the published form.

² The definitions of culture used in this essay come from Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake & Lowcountry* (Chapel Hill & London: University of North Carolina Press, 1998), xx, and Susan Kingsley Kent, *Gender and History* (New York: Palgrave Macmillan, 2012), 80. Morgan writes, "I define culture as the pattern of meanings and ideas that are shared by the members of a society and that guide their behavior. Culture is both behavior and systems of action and ideals or conceptual models for action. An important aspect of this definition is the implied distinction between a social structure and the value system that operates within it." Kent writes, "'Culture' is the place where inequality, social relations, and human subjectives are understood, formed, justified, explained, and made commonsensical. The realm of cultural meaning is the place where these things are fought over." Also, of the historians who have concerned themselves with hegemonic masculinities, John Tosh has perhaps written the most fitting definition in his chapter "Hegemonic Masculinity and Gender History," in *Masculinities in Politics and War: Gendering Modern History*, ed. Stefan Dudink, Karen Hagemann, and John Tosh (Manchester and New York: Manchester University Press, 2004), 41–43. He writes, "It

created, fought for, maintained, and institutionalized their social, cultural, political, legal, and racial agencies to varied extents, and most often at the great expense of others.

While their endeavors were sometimes successful, this was not always the case. And often, these men—white or black—failed outright. While many white men found no real shortage of scenes to perform the expansive levels of privilege to which their gender and their whiteness elevated them, even the majority of them did not reign atop these hierarchies because of their class. Men fought with other men, across racial and class lines, in order to possess what they could on the increasingly shaky ground of these antebellum Southern cultures. Let me set the stages.

Landed white men, who more often than not owned slaves, founded and sustained the South's political and legal system. These hegemonies filled the statehouses during constitutional conventions, and while serving in this capacity, they sought to protect what they already possessed: gendered control of their plantation stages. In Louisiana, this occurred three times prior to secession. These men established judicial systems with the intent of retaining this possession when others would confront its legality. They set the property requirements for political office holding, and in turn they filled the seats of their legislatures afterwards. As lawmakers, these men attempted to write the law to suit the wants proffered by their gender, their race, and their class, because they fully intended to not lose grasp of the cultural and social power they wielded. Historian Eugene Genovese

seeks to explain how the political and social order is created in the image of men, and expressed in specific forms of masculinity. The gender structure of society comprises unequal power relations between men and women, and between different categories of men." He goes on, "Instability and change are integral to hegemonic masculinity." And, "Hegemonic masculinity is always in a tense--and potentially unstable--relationship with other masculinities, whether defined in terms of sexuality, class, age, or race."

deems such use of the law to be what shaped and upheld antebellum Southern society. He writes, “‘Hegemony’... implies, for a given historical epoch, the ability of a particular class to contain [class] antagonisms on a terrain in which its legitimacy is not dangerously questioned.” Though Genovese limits his analysis to class power, his valid functional interpretations of the law require us to broaden our scope and put this “hegemonic function of the law” in terms of gender and race.³ We must look elsewhere, to masculinities and blackness, as these two categories headlined the playbill when other men challenged the planting class’s institutionalized possession of their gendered and racialized selves.

While white male planters shrouded themselves with political and legal control in order to retain control of the South’s gendered social order, manly honor was central to the ways in which their hegemonic masculinities inspired them to seize and maintain this control. Using a term formalized by historian Kenneth Greenberg, men wore “masks” of honor in order to ascribe their reputations together with and hide the true intentions of their individual and collective notions of masculinity. Characterized by acculturated “projections into the world,” planters partially understood honor as a shield for the genteel man to hide his weaknesses from those who could emasculate or subvert him.⁴

³ Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1972), 25–26.

⁴ Kenneth S. Greenberg, *Honor & Slavery: Lies, Duels, Noses, Masks, Dressing as a Woman, Gifts, Strangers, Humanitarianism, Death, Slave Rebellions, The Proslavery Argument, Baseball, Hunting, and Gambling in the Old South* (Princeton: Princeton University Press, 1996), 25. Living under a code of culture of honor required an extensive degree of performance in one’s public life. As such, the act of performing was the vehicle through which this culture gains meaning through one’s actions and intents. In this real sense, performance, unlike that of an actor reciting someone else’s lines on a

But also, planters used honor as the disguise through which their hegemonic masculinities took other forms. As such, honor was inextricably linked with paternalism, because paternalism was but the mask for the system. As Genovese views Southern slavery as a “system of class rule,” he argues that paternalism was primarily a means of social control rather than a positive outcome of Southern slavery. He writes, “[Paternalism] grew out of the necessity to discipline and morally justify a system of exploitation.” Greenberg validates this view, as he notes, “Paternalism was less about love than about the depth and intimacy of masters’ intrusion into the lives of the people they owned.”⁵ Masters did not necessarily have to interfere with slaves’ lives directly, although they often wielded the whip themselves. The fact that the enslaved man was relegated to a continuous capacity of emasculation, either through becoming feminized, being portrayed as a child, or the overarching inability of self-possession and possession of slave women, meant that he was first and foremost a means to the white planter’s masculine ends. As Edward E. Baptist offers, “The denial of black manhood was central to white manhood,” historian Ariela Gross concurs, as she forwards a similar notion that planters’ “self-understandings as white masters depended on their relations to black slaves.” Thus, planter masculinities would become completely quixotic without both the real and abstract possession of those whom they were at odds. Walter Johnson rightly outlines the problem that faced every planter if this system were to fail, “These people

stage, can require a monumental degree of choice—so much of a choice that a person’s performance becomes an act of possession.

⁵ Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, 3–4; Greenberg, *Honor & Slavery: Lies, Duels, Noses, Masks, Dressing as a Woman, Gifts, Strangers, Humanitarianism, Death, Slave Rebellions, The Proslavery Argument, Baseball, Hunting, and Gambling in the Old South*, 46.

who were making themselves out of slaves must have realized that they might also be unmade by slaves.”⁶

It was the fear of being “unmade” as a man that drove these planters to possess other men. As honor and paternalism were inextricably linked on the plantation stages, hegemonic masculinity existed also as the weapon that planters used to expand and assert power over others who were not their slaves. It validated their social and physical control of white women, as well as their direct social, labor, and cultural control of the lower class white men in their employ. Regardless of where exactly they lived—in the big house, the galleries of which directly watched over the fields, or in a distant city, from where absentee owners were represented by contracted overseers as agents—many planters specifically saw themselves as lords of their lands, free to possess all of those under them, serf or slave, on the whims of their honor.⁷ When put in terms of ownership and employment, paternalism could not function unless the masculine hegemon could never be satisfied without the possession of his gendered inferiors. And in such a way, an individual’s place in the order based on race could come secondary to the manner in which the hegemon gendered him. But often, these notions acted in confluence in order to define the extent to which men could exercise personal independence.

⁶ Edward E. Baptist, “The Absent Subject: African American Masculinity and Forced Migration to the Antebellum Plantation Frontier,” in *Southern Manhood: Perspectives on Masculinity in the Old South*, ed. Craig Thompson and Lorrie Glover (Athens & London: University of Georgia Press, 2004), 137; Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton & Oxford: Princeton University Press, 2000), 4; Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge & London: Harvard University Press, 1999), 205.

⁷ Elizabeth Fox-Genovese and Eugene D. Genovese, *The Mind of the Master Class: History and Faith in the Southern Slaveholders’ Worldview* (New York: Cambridge University Press, 2005), 92.

Male overseers comprised the majority of white employees on the plantation. In practice, overseers directly controlled its slave community and took charge of managing its agricultural production with thorough knowledge of planting methods.⁸ Often nonslaveholders themselves, these men integrated into the larger class of nonslaveholding men in the South, as well as with that of yeoman farmers who may or may not have owned a handful of slaves.⁹ While they would not have expressed their masculinities with the same masks as the planter—Greenberg’s noses, gifts, or manner of dress—their own perception of gendered class identity, contrary to Genovese’s argument, was never in stasis.¹⁰ Stephanie McCurry validates this argument as she notes how overseeing was often a temporary profession and but one of a few successful paths to owning one’s own

⁸ Judith Schaefer, ed., “Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*,” *Chicago-Kent Law Review* 68, no. 3 (1992): 1317. The overseer who will come to the forefront of this story described his personal character and reputation by “being a careful manager of negroes, and a good Cultivator of the Soil. [sic]” As a man of goodness and humility, “It was only at [the planters’] urgent Solicitations that he agreed to take charge of the Said Burkland Plantation in the capacity of Overseer. [sic]”

⁹ See, Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations & the Political Culture of the Antebellum South Carolina Low Country* (New York & Oxford: Oxford University Press, 1995), 58.

¹⁰ Greenberg, *Honor & Slavery: Lies, Duels, Noses, Masks, Dressing as a Woman, Gifts, Strangers, Humanitarianism, Death, Slave Rebellions, The Proslavery Argument, Baseball, Hunting, and Gambling in the Old South*; Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, 491. Genovese writes, “Men cannot define the tests of masculinity in a manner abstracted from the web of class power in which they find themselves.” He goes on, “In a paternalistic system men defer to their lords in a variety of ways without losing a sense of themselves as men in relation to their women.” Though he suggests that this applied to masculinity in terms of femininity, Genovese leaves the discussion there, dead on the floor. As such, he implies that class identities on the whole were too static to put the hegemonic masculinities of different classes at odds. I disagree with his assessment.

farm and even slaves.¹¹ As such, overseers often saw the plantation, including the power that its masculine symbolism reinforced, as something that they should and would one day possess. As the plantation was already in their virtual possession by way of their profession, their hegemonic masculinities necessarily came in conflict with those of the planters who hired them, as both fought for the reality of possession. And, in the case of absentee owners, these notions became exacerbated, as on a daily basis, the overseer had free reign to do what he pleased with his employer's property without immediate consequences—the planter was not present to subvert the overseer's proximate authority over the slaves.¹²

As the hegemonic masculinities of planters and overseers diverged due to class, they converged in their ultimate goal of exercising power over white women, other white men, and all black slaves. Thus, this goal necessarily defined their gendered and racialized political unity, because for the South, as well as slavery, to remain politically relevant and effective in governance, it needed the support of a majority of its citizens, which came to include only and all white men regardless of class. The historiography has defined this unity at great lengths. As Edmund Morgan investigates the “central paradox of American history,” he finds, “The rise of liberty and equality in America [was] accompanied by the rise of slavery.”¹³ Adam Rothman takes Morgan's efforts and applies them to American expansion in the old Southwest. As such he concludes that Morgan's

¹¹ McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations & the Political Culture of the Antebellum South Carolina Low Country*, 58.

¹² Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, 382.

¹³ Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York & London: W. W. Norton & Company, 1975), 4.

paradox carried easily into the Deep South, as it was distilled from the hands of planters to include all white men in the cotton Southwest.¹⁴ When paired with Judith Schaefer's work on the legal power given to white men in Louisiana—they were the officers of the court, as well as the witnesses who professed their observed and experienced truths and the jurors who decided the outcomes of cases that often dealt with problems caused by slavery—these authors have shown how Southern political unity was based particularly on gender and race.¹⁵ Stephanie McCurry sums up this historiographical progression as she concludes, “Slavery constituted white men as a privileged class in the South; that it made them members of a political elite and turned the franchise into a particularly valuable possession and mark of manhood and whiteness.”¹⁶ However, as this story will show, a union among Southern white men was never completely solid, even through the final decade *ante bellum*.

Less attention has been paid to the masculinities of black slaves than to those of the white men in the plantation South, but this historiography is not bare. Eugene Genovese was the first to delve into the murky waters of what he observed to be “assertive manliness” expressed by some slave men in regard to protecting their wives from rape. He goes on, “Spirited slaves with a sense of being men would help keep good order and render the plantation more efficient, but they too, in different ways, might

¹⁴ Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge & London: Harvard University Press, 2005).

¹⁵ Judith Schaefer, *Becoming Free, Remain Free: Manumission and Enslavement in New Orleans, 1846-1862* (Baton Rouge: Louisiana State University Press, 2003), 75.

¹⁶ Stephanie McCurry, *Confederate Reckoning: Power and Politics in the Civil War South* (Cambridge & London: Harvard University Press, 2010), 19.

become troublesome in their very responsibility.” And, “The struggle to become and to remain men, not the ‘boys’ their masters called them, included some unattractive manifestations of male aggression.” But, this point refers to already freed black men, a distinction, which merits discussion of a diverging masculinity to that of slave men who had not achieved such a status; Genovese takes no further strides. Rather, he goes on to discredit the entire issue, as he offers, “the mass of European serfs and dependent peasants suffered such indignities at the hands of lords and warlords, yet no one questions their masculinity.” He closes his discussion of the topic to the vexation of every gender historian, “No one will ever know.”¹⁷

Christopher Booker confronts this previously sidelined subject as he looks to those who fought back against masters’ and overseers’ attempts to break them. He shows that some slave men were willing to suffer hundreds of beatings rather than succumb to emasculation by the owners and overseers who tried to break them. He writes, “To rebel during slavery was to achieve a fleeting ‘manhood’ by forcibly seizing respect, a healing respect that could salvage a modicum of dignity from the generally bleak circumstance.”¹⁸ He ends this discussion with an intriguing section on fugitive slaves, as their acts constituted a “trial by fire” through which they asserted themselves as men.¹⁹ But yet, the deeper meanings ascribed to black slave masculinities—masculinities that exist outside of demanding the respect of another, and especially the ways through which masculinities demanded meaning—elude the author.

¹⁷ Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, 485–491.

¹⁸ Christopher B. Booker, “*I Will Wear No Chain!*”: *A Social History of African American Males* (Westport & London: Praeger Publishers, 2000), 26–29.

¹⁹ *Ibid.*, 36.

Edward Baptist agrees with Booker's assertions, as he adds more to the deficient historiography with a sharper focus on geographic location and time, as well as to answer how masculinities could play a part in social control and personal independence. He observes how black men "endured new and varied forms of physical and psychological violence, assaults that specifically targeted any sense of the self as manly." As the deep plantation South became a place of punishment in the minds of slaves, he writes, "New migrants soon saw that reality... exceeded myth." Bridging a gap first encountered by Genovese, Baptist finds, "Some enslaved African American males measured masculinity in ways that paralleled the standards held by free northern African Americans like Frederick Douglass." He succeeds because he addresses masculinities of slave men through their aspirations and the freedman through their triumphs. As such, he explains how not only fighting and resistance, which occurred on the plantation, became an act of remasculination, but running away allowed black men to express their masculinities as a "challenge to white men."²⁰ Escaping the plantation stages, away from the hegemony whose gendered identities were defined by possessing him, allowed for a level of self-possession not before experienced by the enslaved man.

Any discussion of self-possession requires its juxtaposition with that of enslaved humanity in the antebellum South. As Genovese recognized paternalism as a tool for masters to subject their slaves to further mastery, it inherently involved treating slaves with varied degrees of humanness.²¹ Cultural scholar Saidiya Hartman confronts this

²⁰ Baptist, "The Absent Subject: African American Masculinity and Forced Migration to the Antebellum Plantation Frontier," 39–40; *ibid.*, 44.

²¹ Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, 5.

humanity, as she looks to its darker side. She writes, “The recognition of humanity held out the promise not of liberating the flesh or redeeming one’s suffering but rather of intensifying it.” She goes on, “The barbarism of slavery did not express itself singularly in the constitution of the slave as object but also in the forms of subjectivity and circumscribed humanity imputed to the enslaved.”²² Following Hartman, Ariela Gross speaks to this dichotomy of property and personhood through an analysis of the legal system that allowed for slaves to be bought, sold, and hired out, as well as to the courtroom, itself, as a space through which this was tested.²³ The notion that a slave’s capacity to be a man bled through his subjected cultural and legal status requires us to define where, when, and how exactly his masculinity emerged and in what form.

The aims of this microhistory are to provide a narrative concerning the possession of Southern masculinities and to untangle the hegemonic, convergent, and divergent forms of these identities that played out on the plantation stages.²⁴ If a hegemon’s

²² Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth Century America* (New York & Oxford: Oxford University Press, 1997), 5–6.

²³ Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton & Oxford: Princeton University Press, 2000), 4-6. The author writes, “legal anthropology taught me to approach the courtroom as an arena in which ordinary people experienced and shaped legal meanings, and to view law as ‘one of the great cultural formations of human life.’” She goes on to characterize the “trial as an important cultural event in people’s daily lives.” Gross’s perspective is limited to the trial as the defining sphere, whereas I see the trial as an extension of the plantation--another “arena,” in which masculinities fought.

²⁴ See, Giovanni Levi, “On Microhistory,” in *New Perspectives on Historical Writing*, ed. Peter Burke (Pennsylvania State University Press, 1992), 97-99. He writes, “The method is in fact concerned first and foremost with the actual detailed procedures which constitute the historian’s work.” He categorizes the work of microhistorians as the “search for a more realistic description of human behavior, employing an action and

masculine identity was the Big House, those who he possessed were the timber, the stone, and the brick; the act of possession, itself, was the mortar that held it all together. As this essay will show, the plantation stages were the sites where Southern men engaged in their most heated and personal conflicts over what was theirs and why. This thesis brings gendered selves to the forefront of conflict: the Southern men at the top of the plantation system fought to maintain their power through continuous assertions and redefinitions of their hegemonic masculinities. Thus, any man, regardless of his class or his race, could rise to the top of this symbolic status quo—for even just an instant. What ensued was an increasingly unstable hierarchy imposed by the planter standing on top, the black slave chained to the bottom, and other white men fighting or subtly negotiating their way up. Though challenged daily by enslaved black men and women, as well as the white men in their employ, the success of planters' masculinities in possessing what opposed them kept their ideal alive.

The curtains open to the setting of the first act; it was 1853 and the cotton fields of the Burkland Plantation hung as the backdrop. Owned by two men, John Humphreys and his brother, George (also known as William), Burkland straddled a large "L" shaped portion of the land between the Panola Bayou and the Walnut Bayou in Madison Parish, Louisiana. An unnamed canal snaked through the center of its 1,427 acres and out its

conflict model of man's behavior in the world which recognizes his - relative - freedom beyond, though not outside, the constraints of perspective and oppressive normative systems. Thus all social action is seen to be the result of an individual's constant negotiation, manipulation, choices, and decisions in the face of a normative reality which, though pervasive, nevertheless offers many possibilities for personal interpretations and freedoms."

southwest corner. After connecting to larger passages, the waterway eventually swirled its way out of the fertile land as it fed into Milliken's Bend of the Mississippi River, which as the crow flew was only about two miles northeast of the plantation's center. Though the brothers lived in Vicksburg, Mississippi, across the mighty river and about fifteen miles to the southeast, they journeyed frequently to their two holdings on the Louisiana side by ferry in order to directly manage and observe the work of their hired overseers, particularly Henry Utz, who they had charged with the management of Burkland in its entirety. Along with Burkland, they owned another plantation of comparable size: the Dalkeith Plantation, named after the Dalkeith Palace of Scotland, home to the Lord of Buccleuch. Located only two plots away, it had a similar geography to the other. By 1850, these American lords owned 117 slaves on their Louisiana plantations, and by February 1853 at the latest, Ginger Pop, a thirty year old black man, numbered among them.²⁵

Slaves on the Burkland Plantation understood February of 1853 like that of any other year—it was the time when their workload was about to increase exponentially. It would have generally been the month during, or directly preceding, the planting of the

²⁵ Dick Sevier, "Plantations and Land Ownership-1875" (USGenWeb Project, July 2011), <http://www.rootsweb.ancestry.com/~lamadiso/maps/1875madisonplant.jpg>; Dick Sevier, ed., "Madison Parish Resident Tax Rolls for 1879 and 1881" (USGenWeb Project, 1999), <http://www.rootsweb.ancestry.com/~lamadiso/taxrolls/mpt7981ho.htm>; John La Tourette, "Madison Parish" (New Orleans: John La Tourette, 1848), <http://usgwarchives.org/maps/louisiana/parishmap/madisonlatourette1848.jpg>; *Humphreys v. Utz*, Unreported, 6 (Louisiana Supreme Court 1855), Unreported:6; Dick Sevier, ed., "Madison Parish, La 1850 Slave Schedule Index" (USGenWeb Project, February 1, 2005), <http://www.rootsweb.ancestry.com/~lamadiso/census/1850/slaves/1850madisonslaveschedule.txt>.

year's cotton crop.²⁶ Another year, another cycle on Burkland of being forced to produce wealth and status for the planters, and the same to different extents for the other white men on the plantation. Through the late 1840s, Burkland acquired a reputation for managing "bad negroes" and turning them into good slaves.²⁷ As such, it was another year of slaves being driven to physical and emotional exhaustion by the overseers, a group of men intent on "break[ing]" the field hands—a physically and emotionally complex process through which overseers came to define themselves, as well.²⁸ As this story will reveal, this intent far exceeded the basic economic need to demand greater amounts of labor from the slaves, because it crossed over into the realm of validating white masculinities and the gendered system of social and labor control that was the plantation. As up to 90 percent of enslaved men worked in the fields, Ginger Pop was soon going to have to fall in line with many of his fellow slaves, and most of the enslaved men on Burkland, in order to play his role.²⁹ If not, he would have to face the consequences of undermining the entire hyper masculinized culture of the plantation, which had been implanted by the various white men who wielded the whip.

²⁶ Peter Kolchin, *American Slavery: 1619-1877* (New York: Hill and Wang, 1993), 95. He writes, "Cotton cultivation... required a growing season of at least two hundred frostless days."

²⁷ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of Humphreys v. Utz," 1324.

²⁸ *Ibid.*, 1323.

²⁹ Michael P. Johnson, "Work, Culture, and the Slave Community: Slave Occupations in the Cotton Belt in 1860," in *Articles on American Slavery: An Eighteen Volume Set Collecting Nearly Four Hundred of the Most Important Articles on Slavery in the United States*, ed. Paul Finkleman (New York & London: Garland Publishing, Inc., 1989), 195; Schafer, "Sexual Cruelty to Slaves: The Unreported Case of Humphreys v. Utz," 1322.

Many men who worked on and around Burkland in the five years prior to 1853 saw its community of slaves as one that was exceedingly difficult to manage. Henry Utz's brother Gabriel, who worked on a neighboring plantation of different owners, even refused employment that was offered him at Burkland by the Humphreys brothers, because its "negroes were hard to manage, always running away."³⁰ Ginger Pop was the worst of these offenders. He fled the grounds of the plantation monthly, yet Burkland's overseers were always able to retrieve him.³¹ As the agricultural cycle of cotton planting, picking, and harvesting seemed regular to Burkland, so too did the slave community's refusal to succumb. A slave would run, but the overseer would catch him, bring him back, tie him up, and brutalize him in punishment. A few weeks would go by, and the scene would repeat for multiple encores. After a while, the punishment dealt by some overseers could transform easily into a concerted, torturous vengeance.³² In fact, as the process of flee, chase, catch, beat, and repeat recurred more often than the plantation's agricultural routine, this cycle, and others intimately similar to it, came to purchase more meaning for the character of the system, as a tool of its culture of masculinity, than the cotton itself.³³

³⁰ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of Humphreys v. Utz," 1323.

³¹ *Ibid.*, 1319.

³² John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York & Oxford: Oxford University Press, 1999), 44. These authors called it "retribution." My relationship with the primary sources has persuaded me that it was more personal than these authors present.

³³ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of Humphreys v. Utz," 1318.

Ginger Pop's relentless refusal to integrate into this plantation order infuriated Henry Utz to no end. And in February of 1853, when Ginger Pop ran away again, the slave had exceeded the limits to which the overseer could justify doling out "humain" [sic] punishment.³⁴ Through running away so many times—by taking possession of himself—he had emasculated Henry Utz through defying his status as overseer and upending Utz's perception of the power he wielded as a white man on the plantation stage. Rather than lash out in the heat of passion with the usual mode of cruelty—whipping him with a cowhide, switches, or a 'cat o' nine tails' for a proscribed number of blows, or even affixing an iron collar to the slave's neck—Utz thought of something that seemed reciprocal to the way in which Ginger Pop's defiance cut to the heart his white manhood. After considerable premeditation, he created what he thought would be the perfect punishment. He acquired a metal tack and a hammer, and he brought them to his particular site of torture: Ginger Pop's bed. Somewhere in the process, Utz had stripped Ginger Pop of his clothes. And, with the slave's penis in his hand, the overseer pricked the tack into black flesh; its sharp point sent frantic pulses of energy through enslaved nerves from penis to brain—to mind, and to self. In less than a second, Ginger Pop knew what Utz had planned to do to him. The enslaved man's eyes widened, his pores spat out anxious sweat, and hysterically, wildly, uncontrollably he begged Utz to stop. But, he did not succeed.

Utz smashed the tack straight through his sensitive flesh and into the wooden bedrail; the iron pierced more than tissue as a matter of course.³⁵ In Ginger Pop, Utz had

³⁴ Ibid.

³⁵ Ibid., 1319.

created a living symbol of the enslaved man's reality in the plantation South. Affixed to the bed, Ginger Pop looked down to see how his black penis was the chain that tied him down. Crying out in agony, tears rolling down his eyes, blood erupting from between his legs, he looked down to see the deep red that soaked his skin, the bed, and the floor, as well as Utz's tools—his hands, too. In Utz's view, standing above the emasculated slave, he had defined his own gendered identity with the tools at his disposal. Ginger Pop became a physical manifestation of how the overseer understood and projected his power on the plantation.

However, Utz was not finished with him. While the overseer had seized the power to subject the slave and that of his gendered identity, he knew that part of this power was mercy. But, it would come at a price. If he was going to let Ginger Pop free, Utz could not let him forget this torment, emotionally or physically. With his cowhide whip, Utz hit him with two or three more "licks"—just enough to make Ginger Pop's body, which was now writhing in a divergent pain, pull the tack through and out of his penis; it further tore his flesh.³⁶ As Utz's first action defined his power to chain Ginger Pop down, his second action expressed to the slave that the overseer retained the power let him go free; both of these outcomes existed because Utz possessed the enslaved man. Like the plantation's many cycles, the overseer sought to control this rotation methodically. And, he may have completed this ritual with others.³⁷

³⁶ Ibid.

³⁷ Ibid., 1316. The record is lacking in evidence on this subject, but as will be discussed later, an accusation of this nature was made by the Humphreys brothers.

While Utz's premeditated emasculation of the Ginger Pop functioned to legitimize the overseer's possession of the slave and validate his own masculinity, it did not have its desired effects on the slave man. Ginger Pop's own quest for self-possession was not over. In May, after the wounds on his back and penis had healed into scars, Ginger Pop ran away, and again, Utz dragged him back. In exercising a more restrained form of premeditated cruelty, Utz gave the plantation another performance of his hegemonic masculinity. On the gallery of the plantation house, for all in the fields to see, Utz restrained Ginger Pop and hammered a three-inch nail into his ear—perhaps Utz thought that this might remind him to listen and heed the overseer's commands. After the cartilage in the slave's ear failed to yield to the overseer's desired extent, Utz obtained a hand vice and screwed the iron all the way through it.³⁸ The entire plantation watched, as again, Ginger Pop's blood soaked the stage.

During the month of June, more unrest occurred from within the slave community on the Burkland Plantation. Three enslaved men, Emanuel, Pass, and Jo Bass, all absconded from Burkland, but a white man named R. W. Burney caught them and jailed them in Vicksburg. After learning of their actions and whereabouts, William Humphreys tied them up and returned them to Burkland across the river on the ferry. Once they arrived at the Burkland Plantation, Humphreys stripped them naked so that he could whip them individually. As he lashed one of them, he commanded the other two to hold their brother down. Although these men worked in concert to demand possession of their own bodies, the planter now forced them to participate in the emasculation of each other. Humphreys directed the scene in such a way that distanced these repossessed men even

³⁸ *Ibid.*, 1319.

farther from the divergent masculinities, which had propelled them to escape in the first place. The solidarity that they maintained while escaping together had been smashed. After the planter had dealt his blows with the cowhide, Humphreys ordered Utz to put them in the stocks and to continue whipping them.³⁹ The three naked black men lay down together with their ankles locked through heavy wooden boards. Equal in torture, equal in subjection, and equal in emasculation, their sliced black backs bled into the dirt from the wounds that they had been forced to inflict on each other.

The word of these scenes must have spread around the plantation like wildfire. By June of 1853, every slave on Burkland knew that Ginger Pop had been sexually mutilated, knew that he had been tortured on the gallery of the big house, and knew that Emanuel, Pass, and Jo Bass had been stripped naked and forced to help torture one another. These scenes were probably not the first of their kind on the Burkland, and certainly they would not be the last, as Ginger Pop, who had experienced and witnessed them, still refused to acquiesce to such emasculation. With only the overseer, Henry Utz, to immediately feel the effects of his defiance, Ginger Pop ran away for the final time.⁴⁰ In the act, the black man had seized himself away from the grasp of the overseer who used the power that he wielded over the plantation's slave community to define his gendered identity.

Ginger Pop's triumph was short lived, as Utz caught him again. As the enslaved man's actions infuriated the overseer six months earlier to a point of concerted physical emasculation, Utz could no longer maintain control of his emotions. It was as if Ginger

³⁹ Ibid., 1323.

⁴⁰ Ibid., 1319.

Pop had cut deep gashes into Utz's now bleeding masculinity, and the overseer saw red. After dragging him back to the plantation, Utz took the hard butt of his cowhide whip and beat Ginger Pop over the head with it for "as long as he could stand over him." The slave's head gushed blood, and like the same cycles before, it pooled red in the dirt until it soaked into a muddy black. Utz ordered some slaves to wash his head with water and other salves to return him to his cabin. Ginger Pop died that night, or early the next morning, from the trauma to his skull, brain, and body or shock caused by the same. Knowing that Ginger Pop was going to die that night, he told Joseph Reimer, a subordinate overseer at Burkland, that "he was *damd* [sic] glad of it," and later that "he had Slept the happiest night Sleep he had Slept Since he had been on the place. [sic]"⁴¹ For the seven months that Henry Utz had run the plantation, Ginger Pop had been the constant thorn in the little lion's side. And now, the overseer's greatest challenger to his masculinity was dead. Ginger Pop was never to upset the order he had created again, or so Utz thought.

As July passed into early August, Henry Utz remained at his post, brandishing the whip, the vice, the hammer, and the nail, for all of Burkland to see and to fear. Burkland was his. But, Utz could relish in his power only for a little while longer, as by August 19, 1853, the Humphreys brothers had learned about Ginger Pop's mutilation and murder. As such, they fired him that day on the apparent legal grounds that he destroyed their property. They found pause with the ways in which Utz annexed all of Burkland for his own lordship. Less than one month later, on September 17, 1853, they filed for civil

⁴¹ Ibid.

action in the Tenth Judicial District Court in Richmond, Louisiana, the seat of Madison Parish located only a few miles to the southwest of Burkland. Their civil petition to the court charged Utz with varying crimes against them and their property,

That Henry Utz a resident of Madison Parish was employed by your petitioners as an Overseer or manager upon the Burkland Plantation owned by them, and Situated in said Parish, during the year 1853.

Shows- that during the year 1853 the Said Utz whilst acting as overseer on Said Plantation cruelly abused the negroes attached to said plantation, and owned by your petitioners by inflicting unusual unnecessary and cruel punishment to them.

They charge the Said Utz with having whipped the negroes belonging to and attached to Said Plantation, to such an unnecessary and cruel degree as to materially injure their worth and to occasion loss to your petitioners.

They particularly charge cruel treatment of an unusual inhuman and outrageous nature perpetrated by the Said Utz upon two of the negroes placed under his care, protection and management.

They allege that one of said negroes whose name was "*Ginger Pop*" died from the effect of cruelties inflicted upon him by the Said Utz in nailing the privates of Said negroe to the bedstead and then inflicting blows upon him until Said negroe pulled loose from the post to which he had been pinned by driving an iron tack or nail thorough his peniss or privates.

Petitioners further charge that Said Utz inflicted a similar outrage upon a certain negroe boy named Dave or David also the property of your petitioners and under the control or management of Said Utz as Overseer on the Burkland Plantation.

Petitioners aver that they have sustained damage from the wrongful acts of the Said Utz to the full amount of Five Thousand dollars.

Wherefore the premises considered petitioners pray that Henry Utz be cited to answer this petition and served with a copy of the Same, and upon initial hearing thereof, that they have judgment against him for Five Thousand Dollars damages, for costs and for trial by jury and relief generally. [sic]⁴²

⁴² Ibid., 1315–1316. While the petition also discusses another slave, Dave or David, sadly not enough of the record tells his story. As such, his day in court was but a whisper of a mention compared to Ginger Pop's experiences. While we may never know his truth due to the lack of sources, it must be noted that his inclusion in the petition hints to the extent and cyclical nature of Utz's sexually emasculative treatment of the Humphreys's slaves.

While parts of the petition were factually incorrect as to the details of Ginger Pop's death, its few short, declarative paragraphs give a wealth of information concerning the gendered relationships and actions of the men involved, as well as their conflicting interpretations of possession, power, ownership, honor, and masculinity. Also, the Humphreys's petition masks much of their own realities on the plantation, especially as it failed to note their involvement in many scenes of torture and emasculation. Through this legal action, the Humphreys brothers relocated their plantation, and particularly the gendered power dynamics that defined it, to the courtroom. This became the stage on which they attempted to take back possession of what they had lost through Utz's emasculative *coup d'état*.

The petition's first paragraph acts first to establish and codify in the eyes of the law the Humphreys brothers' ownership and possession of Burkland, and second, to declare Utz's labor within their possession, as well. The second, third, and fourth paragraphs go on to establish the Humphreys brothers' possession of the slave community on Burkland, along with the possession of their right to treat their property in any manner so bound by manly honor—while a gentleman would not resort to cruelty, he may define its terms and bounds in any manner his honor may deem acceptable. While the fifth paragraph goes into detail concerning the cruelty imparted upon Ginger Pop with similar motivations to the second paragraph, it displays a semantical conflict that brings into question the possession and ownership of the slave's masculinity by any man other than Ginger Pop. If the Humphreys could own his body and possess his gendered self as their slave, in what logical way could Ginger Pop be allowed to have private parts, which were his and his alone? Although he had been physically emasculated and murdered by a

white man, the symbolic power that white hegemonic masculinities wielded over him could not fully articulate its place.⁴³

The sixth paragraph underpins the extent to which cycles of vengeance came to define Burkland and its culture of masculinity. While its relevance to the case, and even its truth, became negated during the trial's quest for "unbiased" evidence, its presence in the petition reinforces to the historian the predominance of the plantation cycle of emasculation in the story of the plantation South, as well as Southern white planters' persistent masculine conflicts with their overseers. The final two paragraphs of the petition act to measure the damages that Utz's crimes caused in regard to the Humphreys. As Ginger Pop had been valued at \$1,000 dollars at the most, the planters' evaluation for one slave at \$2500 seems absurdly high.⁴⁴ Although these paragraphs seem vacant of any intimate meaning in the face economic exchange, a deeper analysis reveals a subjective allusion to the intangible ways in which Utz wounded the Humphreys brothers. The last two words of the petition, "relief generally," express the intimate motivations of the Humphreys brothers, which existed outside of Burkland's accounting ledger.⁴⁵

⁴³ Ibid.

⁴⁴ Ibid., 1322. John Calloway, a witness for the defense, claimed in reference to Ginger Pop, "Such a boy now under a good character would be worth from \$800 to \$1000 if he was a healthy boy as far as he knew." As Ginger Pop was of 'bad character' his evaluation would be less; *ibid.*, 1316. This author arrived at \$2500 by dividing the damages asked for by the Humphreys brothers by two, because in the petition the damages addressed the death of two slaves, Ginger Pop and Dave or David.

⁴⁵ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," 1316.

Henry Utz responded to the Humphreys's accusations in his disjointed answer to the court, filed two months later, on November 15. With his answer, the courtroom maintained its significance as the place in which the plantation needed to govern conflicting masculinities in the antebellum South. Within, he denied their charges, and repetitively asserted that he faithfully satisfied his "duty as overseer" for the entirety of his time on the plantation. In regard to his duties, Utz claimed that first and foremost that he "had established a reputation for being a careful manager of negroes, and a good Cultivator of the Soil. [sic]"⁴⁶ Intriguingly, Utz understood the law and the courtroom stage as institutions that would favor the case of the white planter and slave owner due to the planters' hegemonic control of the law, as well as one that would look customarily to protect the humanity of the enslaved at the behest of the planter's ability to possess it and impart social control. As such, he claimed that the Humphreys brothers had "approved of his entire management as Overseer for them." And, "that up to the 19 August the Crop on Burkland was better than any previously raised on Said place—that he was at all times attentive to his business, kind to the Sick and human to all. [sic]"⁴⁷ Utz had to make his case carefully, because if he tried to emasculate the planters in their own arena, he would fail, but also he needed to show that he deserved to be seen as their equal under the law of white men. Thus, he used this opportunity to reconventionally demand that the planters pay him his lost wages for the rest of the year, because, through "wrongful acts," they terminated him "without any just Cause." Also, he charged the planters "with the malicious intent and purpose of injuring him and destroying his reputation as an

⁴⁶ Ibid., 1317.

⁴⁷ Ibid., 1318.

Overseer.”⁴⁸ In considering his reputation, Utz sought to establish that he was the victim, and that his own manly honor, divergent to that of the planter, had been disgraced and unjustly feminized—after all the law sought to protect all white men equally.

The planters and the overseer came to this stage as equals under the law, and each of them fought over the masculine power to possess. Both of them had the ability to accuse the other of wrongdoings, and each could expect to be represented fairly by the officers of the court—their counselors and the parish judge who presided over civil procedure. But, in the case of Madison Parish, the other white men who had been dragged into the process would not be so evenhanded.⁴⁹ The Humphreys’s attorneys used the witnesses to criminalize Utz’s behavior and actions, while showing that the overseer acted outside of honor-bound, masculine restraint. Utz’s attorneys sought to show through witness testimony that the Humphreys had unfairly treated the overseer; all the while he had dutifully carried out their orders. Furthermore, their recounting and convolution of the facts added to the reasonable doubt with which the jury would view Utz’s participation in the series of events. Also, the witnesses and the jurors had their own motivations, allegiances, and perspectives, governed by gender, race, and class, which shaped the way they presented, interpreted, and judged the ‘objective’ facts of the case subjectively. Over the next six months—evidence closed on November 18 and

⁴⁸ *Ibid.*, 1317.

⁴⁹ *Chapter 3, Article 177, Civil Code of the State of Louisiana, with the Statutory Amendments, from 1825 to 1853, Inclusive; and References to the Decisions of the Supreme Court of Louisiana to the Sixth Volume of Annual Reports, 1853, 28; Chapter 5, Section II, Article 2260, Civil Code of the State of Louisiana, with the Statutory Amendments, from 1825 to 1853, Inclusive; and References to the Decisions of the Supreme Court of Louisiana to the Sixth Volume of Annual Reports, 1853, 305.*

reopened on April 27, 1854 for additional testimony—the jury listened to all, and decided the verdict on the very day that the additional testimony had been given. This masculine power struggle, which defined Burkland, had infiltrated the Richmond courtroom, too. This lower court would renegotiate the hierarchies that initially defined these men.

The first witness called by the Humphreys, Joseph Reimer, began the convoluted process by which the trial set out to find its truth. Reimer had been a subordinate overseer on Burkland for about two years, and had lived on the grounds for most of that time. Reimer testified to Utz's swagger on the plantation—the head overseer had bragged to him about mutilating Ginger Pop back in February. He went on to recount seeing Utz torture Ginger Pop on the gallery of the plantation house, after which he heard Utz tell Ginger Pop, "I mean to knock a tooth out of your head every time you runaway or else I will burry you." Next, he went on to narrate his participation in Ginger Pop's death. After Utz caught the enslaved man in June, he ordered Reimer to hold him down while Utz beat his body and head to a fatal state of senselessness. In the final line of questioning by the Humphreys's attorney, Reimer revealed that he and Utz were the only other white people on the plantation that day.⁵⁰ As such, no other valid witnesses in the eyes of Louisiana law could speak to this scene from a first-hand account.

Utz's attorneys took a different angle of attack, as they attempted overtly to uphold Utz's good reputation and demonize Ginger Pop as an unmanageable slave. Also, they sewed a subtext that Utz's actions did not differ from what an honorable planter would have done. To their questions, Reimer divulged, "That boy runaway about every

⁵⁰ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of Humphreys v. Utz," 1319.

month, and [Utz] had great difficulty in managing him.”⁵¹ He went on to note how he “never heard of Ginger Pop being Sick one hour from the effect of driving the tack through the Skin of his peniss. [sic]” Reimer told the court that William Humphreys was present for the scene on the gallery, and he followed with the assertion that he “never hear[d] of the Boy being Sick a moment or confined afterwards [sic].” Importantly, Utz’s attorney used Reimer to voice the main theme of their defense tactics: “as far as he [knew], [Utz was] always Kind and attentive to his business as an Overseer, he heard no complaints [sic].”⁵²

John Bartlett and J. S. Alexander, two other witnesses for the Humphreys, and likely subordinate overseers, recounted their conversation with Utz concerning his treatment of Ginger Pop. Both of these men told the same story of Ginger Pop’s mutilation, which the court had heard from Reimer. And again, they reiterated that they never had “known any cruelty on [Utz’s] part towards the Slaves on the place.”⁵³ While Reimer’s, Bartlett’s and Alexander’s testimony *in toto* showed the extent of Utz’s cruelty, it also showed how the hegemonic masculinities of overseers were at odds with a similar code of honor to that of the planter, which was tied to their gendered professions. As such, this code advanced the overseer’s managerial duties to the forefront of his reputation. And, if the realities of the overseer’s methods were made public, his reputation would be tarnished because his hegemonic masculinity, which was in conflict with that of the planter, would be made apparent. No planter would hire him if they

⁵¹ Ibid.

⁵² Ibid., 1320.

⁵³ Ibid., 1320–1321.

knew that he would strive to possess what was theirs, and furthermore, the law would not support him if his goal was to upset the social, cultural, and legal order based on slave ownership and a master's possession of his slaves. Also, even though three overseers were sworn witnesses for the plaintiff's case, each of them felt the need to say that Utz was good at his job and that he did not do anything cruel, regardless of their prior testimony. As this theme inputs a great degree of hypocrisy into their statements, it shows how many overseers held allegiances to each other in the face of the planter class. And, it shows how class played a significant role in defining divergent masculinities and the codes of honor used to hide them.

During the defense's turn to call witnesses, they called to the stand John H. Calloway, an overseer at another Madison County plantation. The defense used his statements that Burkland was "well managed [and] that he never saw any cruelty on the place" to further the story, which undercut the reality of Utz's actions and intentions.⁵⁴ But also, as Calloway mentioned another unspecified "trial" concerning Utz and his treatment of Ginger Pop, his testimony functioned to present the "not guilty" verdict of the criminal trial involving Utz, and to show the jury that Utz was found not criminally culpable for Ginger Pop's death.⁵⁵ The next witness called to the stand was Dr. Charles J. Mitchell, the plantation's doctor who conducted the *post mortem* examination of Ginger Pop's disinterred body six weeks after burial. In his testimony, Mitchell swore that he found no skull fractures, but also he refused to complete a full examination

⁵⁴ Ibid., 1321. The plaintiffs had called another witness not discussed above, but for the purposes of conceptual cohesion, the testimony of R. W. Burney will be discussed in regard to the testimony of Gabriel Utz, a witness for the defense. See, *ibid.*, 1323.

⁵⁵ Ibid. This will be discussed later during the Humphreys's Appellant's brief.

because the smell of Ginger Pop's body was too putrid, or at least "unpleasant [enough] to make a further examination." The doctor did not inspect the majority of Ginger Pop's ribs, and due to the body's state of decay, he could not say for certain if Ginger Pop's penis had been injured. But, regardless of the fact that he did not complete his autopsy, Mitchell asserted to Utz's attorney, "from the examination he was not led to the conclusion that the Boy came to his death by cruelty."⁵⁶ During the cross examination by the Humphreys's attorney, the doctor's earlier conclusion was shown to be faulty, as he then claimed, "from the decayed Situation of the Body it was impossible to tell whether he came to his death by Violence or not, he might have been beat with a Stick or Stabed to the heart. [sic]"⁵⁷ From these divergent accounts by the same man, the jury had to choose from two opposing truths.

The final witness for the defense provided key testimony concerning the depiction of Henry Utz as the victim of the Humphreys's unwarranted subjugations of the white men in their employ. In this light, the planters had spat at the unity through which nonslaveholding and lower class white men held political power alongside one another. This tactic would find great appeal with a rural jury, as will be discussed later. As Gabriel Utz, Henry's brother who oversaw another plantation nearby, noted how he refused to work on Burkland because the "negroes were hard to manage, always running away," his statements supported the notion that the character of the slaves reflected the character of their owners.⁵⁸ And in such a way, the defense was trying to show that the

⁵⁶ Ibid., 1322.

⁵⁷ Ibid., 1323.

⁵⁸ Ibid.

Humphreys brothers were not the men that the paternalistic plantation system, as well as the laws that upheld it, intended them to be.⁵⁹ As Gabriel Utz went on to tell of the beatings of the enslaved men, Emanuel, Pass, and Jo Bass, he asserted that the Humphreys brothers were not above brutalizing their slaves with their own hands, and often when they did, it was to a greater degree than his brother Henry would have thought prudent or even allowable.⁶⁰ This line of inquiry propelled the jury to understand the reason why the planters would accuse Henry Utz of such cruelties and inhumane destruction, while they inflicted them on their own slaves, as greed.

Also, Gabriel Utz's testimony concerning breaking slaves sheds light on the nature of an overseer's honor and the reality of his hegemonic masculinity. Throughout the testimony of all the other witnesses in the case, the greatest extent to which the specifically termed duties of an overseer were discussed included slave management and the rare necessity of breaking a slave. These men, however, did not qualify these notions in regard to how they were carried out. As such, it was to the advantage of an overseer to be known for managing well and successfully breaking many slaves, however, it would be dishonorable for the overseer to do so in a way that could be construed as inhumane. The means to this end were hidden by the overseer's mask of honor. Thus, all of the

⁵⁹ Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge & London: Harvard University Press, 1999), 200. In reference to slaves at market, Johnson writes, "Slaves propped up their buyers' post-sale performances of the varieties of slaveholding masculinity. Through the exhibition of their new slaves these men... came into a higher form of public being." He goes on, "But when a slave show did not go well, it could be embarrassing." As a slave's character informed the masculinity of his purchaser, this qualification, in fact, was informed by masculinities and the dynamics of honor and the power of possession on the plantation stage.

⁶⁰ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," 1324.

statements by the witnesses concerning the state of the plantation and its slaves must be viewed in this light.

Six months after the evidence was closed on November 18, the judge permitted another statement from Joseph Reimer on April 27, 1854. He claimed to have new and different testimony to give to because his previous statements were not the truth, but this was not the entire story. During the initial testimony of John Calloway, the witness brought up that the Humphreys brothers had agreed to house Reimer during Henry Utz's criminal trial so that the subordinate overseer could "give in his testimony without any fear" [sic].⁶¹ As the record is unclear concerning Reimer's reason to be fearful, it is necessary to extrapolate this situation from the context of the case and its social and cultural contexts. Though Reimer testified for the plaintiffs in both the criminal and civil trials, he still felt the need to validate Utz's honor during his initial testimony. Later, his second statement negated drastically the plaintiff's facts of the case, to which he had previously attested. Within, Reimer noted that he did not actually see Utz "strike the nail," since Ginger Pop's head was in the way. As such, he could not be sure; he could only hear the slave scream. Furthermore, Reimer offered,

...the treatment of [the defendant] to the negroes was as kind as any other Overseer he was with, that the [plaintiffs] were over on the places every two or three weeks and never heard any complaint made by them and never head any thing of the Killing of Ginger Pop until the day of the inquest, did not See the Boy after his death, had no idea at the time that the Boy was whipped to death. [sic]⁶²

⁶¹ Ibid., 1321.

⁶² Ibid., 1325.

Such a radical change in evidence points to the high probability that Reimer's initial fears concerning his testimony had been realized. In context of the masculine conflicts obviously occurring due to labor and class divisions, it is probable that his fellow overseers threatened him for not supporting Utz. And, by April, the Humphreys could not longer protect Reimer from them, or at least give him the peace of mind, to any significant degree.

After Reimer gave his final piece of testimony, the case went to the jury to decide. And seeing that the jury returned with a decision before the close of business that day, it must have been an easy decision for them. It read, "We the Jury find a verdict in favor of the defendant for the sum of \$388.86."⁶³ The causes and implications of Reimer's new testimony carried significant weight for the jury's decision, as at least four, probably five, of the eleven jurors were overseers. P. E. White was appointed foreman of the jury. At twenty-five years old, White hailed from Mississippi and he resided in Madison Parish as an overseer without slaves. From Tennessee, W. A. Evans was an overseer who owned no slaves, as well. Thomas R. Davis and B. B. Franklin were overseers from Virginia, and Davis owned \$4,305 worth of real estate. It is possible that this property included slaves, but it probably amounted to a small plot of land that Davis worked along with his employment as an overseer.⁶⁴ Furthermore, Samuel B. Cameron was a member of the jury, and while his occupation was not listed, he was under thirty years old, hailed from

⁶³ *Ibid.*, 1326.

⁶⁴ *Chapter 2, Article 461, Civil Code of the State of Louisiana, with the Statutory Amendments, from 1825 to 1853, Inclusive; and References to the Decisions of the Supreme Court of Louisiana to the Sixth Volume of Annual Reports, 1853.* The Civil Code of Louisiana states, "Slaves, though movables by their nature, are considered as immovables, by the operation of the law."

Mississippi, and owned no property in the parish. He may have been a tenant farmer or an overseer, as well.⁶⁵ Of the twenty-four white men who were directly involved in the outcome of the trial, it is likely that twelve of them were overseers, while only the two Humphreys brothers were planters. All of the overseers who played roles on this plantation stage were able to empathize and understand the subjective motivations and identity of the defendant—they were brothers in a way, as they shared the same gendered, racialized, labor- and class-based cultures. At the district court level in a rural Louisiana parish of 826 white men, 590 white women, and 4 free men of color, the scales were weighted to favor of the population's majority to the disadvantage of its minorities of every gender, race, and class.⁶⁶

In the jury room, the eleven white men used the paper provided them by the court to calculate Utz's damages. As he made \$66.66 per month under a contract of \$800 per year, the Humphreys owed him \$508.83 for breaking the contract. However, the jury deducted \$120 for reasons unspecified in the document. But, a reasonable inference finds that this amount coincided to the damages that the jury thought Utz caused the Humphreys brothers in terms of their slave property.⁶⁷ Furthermore, as no record of it exists, it is uncertain whether or not the jury awarded this concession to the planters solely for the death of Ginger Pop, or for the death of both Ginger Pop and Dave or David. Regardless, in accordance with the logic of John Calloway's testimony, the jury

⁶⁵ "1850 Census, Population Schedules" (U.S. Census Bureau, 1850).

⁶⁶ *Ibid.*

⁶⁷ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," 1331n10.

thought Ginger Pop, a habitual runaway, could only be worth \$120 at the highest evaluation.⁶⁸ In the view of lower class white men, men who owned few slaves, or none at all, the more a slave emasculated those who possessed him—the harder he tried to take possession of himself—the less he was worth to them, monetarily and symbolically.

In response to this unacceptable verdict in their view, the Humphreys brothers appealed their case to the Louisiana Supreme Court. Entering the Court's docket in February 1855, their attorney, Andrew R. Hynes, codified their position in a succinct brief. Hynes opened his argument by confronting and characterizing Utz's treatment of Burkland's slave community, as "*unusual, unnecessary, and cruel* [sic]." And, he goes on to characterize Ginger Pop's and Dave's or David's treatment as "*unusual, inhuman, and outrageous*."⁶⁹ He follows to counterfactually claim that Ginger Pop died of the wounds to his penis, as well as argue that Utz treated Dave or David the same way. For the successive six paragraphs Hynes seeks to show how the witnesses "prove[d]" his case, while he simultaneously attempts to discredit Gabriel Utz.⁷⁰ After such discursive descriptions and interpretations of the witness testimony, Hynes moves on the conceptual meat of his argument. On this plantation stage, the plaintiffs appealed to the "purity of the Bench"—a specific purity that previous masculine hegemons like them had attempted to codify through the Louisiana constitution.⁷¹

⁶⁸ Ibid., 1322.

⁶⁹ Ibid., 1332.

⁷⁰ Ibid., 1332–1333.

⁷¹ Ibid., 1334.

In his defense of the Humphreys brothers' masculine rights of ownership and possession, Hynes requests that the court uphold the plantation system, as well as its gendered hegemony, through the humane paternalism that mandated certain restrictions on the expressions of authority by masters and overseers. He writes,

The instincts of all good men, of all right thinking persons, revolt at the perpetration of such an outrage upon decency and humanity as the defendant in this case confesses to have been guilty of. Slavery in our country is not the irresponsible right of the master or overseer over the slaves, but our laws have clearly laid down and our courts will rigidly enforce certain duties due slaves from their masters and managers... Our laws have wisely and humanely thrown a shield of its protection around not only its citizens but its slaves.⁷²

These restrictions fell under the mask of masculine honor with which the publically reputable hegemon would treat his slaves. However, as has been shown in this story, this hegemonic masculinity acted in the disguise of honor to further subject the slave, while justifying the goodness of the entire system. While Hynes calls this a shield for the slave, it was, in fact, a shield for the plantation and its gendered stages to wield power over him.

As the theme of humanity was delicately interwoven within this mask, manly honor espoused by Christianity and by patriotism found its way into the fray. He writes,

...a human being—one who although a slave, is made after the image of God and stamped with the dignity of soul and intellect which exalts human nature above the level of other created beings. For the sake of humanity, for the sake of religion, for the sake of God, place the seal of your condemnation upon such conduct and let your judgment be one that when it is recorded upon the imperishable records of our country, that your children and your children's children, may not blush at the recollection of what their forefathers may have done.⁷³

⁷² Ibid.

⁷³ Ibid., 1335–1336.

Ginger Pop's treatment, in abstraction from the context, was such that it could only have occurred without regard to the manly honor, which governed together religion and the legal system of the United States and was a notion for posterity. Therefore, Hynes's position on the enslaved man's treatment at the hands of Henry Utz functioned to show how the overseer overthrew the lawfully upheld status quo, which was governed by gendered, class-based, nationalistic, and religious identities. As such, this line of thought perfectly aligns with the general implications of the decision in *Hendricks v. Philips*, a case that Hynes asked the Court to consider. In the published report of the *Hendricks* decision, Justice Thomas Slidell wrote,

The planter who employs an overseer, in the absence of orders to the contrary, delegates to him the power of punishment contemplated by law, and necessary for the preservation of discipline and the public peace. But, certainly, the overseer is restricted by the same measure of power which the law has imposed upon the owner; and, if he transgresses it, he violates his duty, and is answerable to his employer in damages, and to public justice, which he has offended. [sic]⁷⁴

Offending the "public justice" translated to offending the honorable masculine hegemony of the slave owner, as well as the laws and cultures that maintained his possession of the system.

A secondary point of order within the Appellant's Brief highlighted the class conflicts that had riddled the case since before its inception. He declared,

It remains for this unprejudiced tribunal to do duty that a prejudiced Jury failed to do. To say whether in this land of law such cruelties shall go unpunished, unrebuked—whether the property of individuals entrusted to agents shall be abused, wasted and destroyed, without holding them to a strict accountability. [sic]⁷⁵

⁷⁴ *Hendricks v. Philips*, 3 Louisiana Annual Reports 618 (Louisiana Supreme Court 1848).

⁷⁵ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," 1335.

The jury at the district court level, as was shown, was composed in large part by overseers, and included no men of the planter class. Earlier in the brief, Hynes asserted, “no class is so clannish or so disposed to protect each other in their difficulties. Whenever a planter shall in a contest with an overseer resort to a jury, there can be no doubt as to what the verdict will be.”⁷⁶ But also, Hynes may have been engaging with the judiciary’s own particular sense of class power. As historian Warren Billings notes, “The legal profession drew thousands of ambitious individuals irrespective of their social origins,” he alludes to the validity of Alexis de Tocqueville’s “American aristocracy” of jurists.⁷⁷ Once these men came to study law and participate in its practice, the significance of their social origins could easily fade on the plantation stages through the imposition of plantation’s gendered culture, which inevitably ruled all of its actors.

Associate Justice Alexander MacKenzie Buchanan, who would go on to write the opinion for the Court in *Humphreys v. Utz*, may very well have ascribed to this elevated class alliance with planters. After moving to New Orleans from New York, he and his family integrated quickly into the city’s elite planting families. By the time the Louisiana Supreme Court heard *Humphreys v. Utz*, Buchanan had established a home on Esplanade Boulevard, a street well-known for housing primarily the old French creole families who

⁷⁶ Ibid., 1334.

⁷⁷ Warren M. Billings, “A Course of Legal Stuics: Books That Shaped Louisiana Law,” in *A Law Unto Itself?: Essays in the New Louisiana Legal History*, ed. Warren M. Billings and Mark F. Fernandez (Baton Rouge: Louisiana State University Press, 2001), 26.

owned or had ties to the river's sugar plantations.⁷⁸ While Justice Buchanan did not own slaves personally, his son, Phillip, married into one of the oldest and most politically active families in the state, the Romans, who owned 349 slaves, \$148,000 of real property, and another \$175,000 of chattel property by 1860.⁷⁹ Genealogical records, compiled by one of the family's distantly linked relatives, show that Phillip Buchanan married Octavie Roman, daughter of the sugar planter, Jacques Téléspore Roman. They had three children: James, Marie, and Sydney. Later, James married twice, and one of his daughters, Marie Buchanan married Judge Charles Farrault de la Villebeuvre, a distant cousin through the Roman family and member of the de la Villebeuvre family. Sydney Roman Buchanan, Justice Buchanan's youngest grandson, married Marie Héloïse La Bédoyère Huchet de Kernion. The Roman, de la Villebeuvre, and Kernion families had been established in New Orleans since the first half of the eighteenth century.⁸⁰

Buchanan began his analysis of the case after four descriptive paragraphs of the trial. Immediately, he picked up where Hynes left off: "The legislation of Louisiana has always been characterized by humanity to slaves." He continued by transcribing two statutes from the Black Code of 1806, and one from 1855, which dealt with the criminality and civil penalties in regard to the killing and mutilating slaves.⁸¹ Buchanan's

⁷⁸ *Cohen's New Orleans and Southern Directory for 1856* (New Orleans: Daily Delta Print, 1856), 43.

⁷⁹ Joseph Karl Menn, *The Large Slaveholders of Louisiana - 1860* (New Orleans: Pelican Publishing Company, 1964), 355.

⁸⁰ Stanley C. Arthur and George Campbell Huchet de Kernion, *Old Families of Louisiana* (Gretna: Pelican Publishing Company, 1931), 269–274.

⁸¹ Schafer, "Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*," 1338.

arguments showed how fully he, and the law itself, was ascribed to the entangled notions of manly honor and humanity, which governed the treatment of slaves and maintained planter's place atop the social, cultural, economic, and legal hierarchy. He went on,

A proof that the human spirit of the legislation is in consonance with the sentiments of the slave owners of Louisiana, is found in the fact that the resent is the third prosecution of an overseer by a planter, for ill treatment of slaves under the care of the former, which had come under our cognizance within the past year. [sic]⁸²

While the Justice noted that the “charge of causing Ginger Pop’s death, is not made out in evidence,” [sic] he qualified that “acts of revolting brutality have been proved, which entirely exceed the limits of that repressive and correctional discipline which is necessary to the management of the agricultural laborers of the South.”⁸³ As the justice highlighted this newfound frequency of cases, his words elucidated the great extent to which the law existed to protect the gendered hierarchy.

Buchanan moved on to directly discuss the conflict with highly gendered terms that masked the outright nature of Ginger Pop’s feminization at the hands of the overseer, who had overstepped the bounds set by his subordination to the hegemonic masculinities of his employers. He wrote,

“The evil passions of men become infuriated to reckless ferocity by unbridled indulgence: and the very helplessness of the slave, which inspires generous natures with compassion and sympathy, is sometimes found to encourage those of an opposite organization, to cold blooded refinements of torture. He who cannot protect himself, has a double claim to protection from the ministers of the law.” [sic]⁸⁴

⁸² Ibid., 1338–1339.

⁸³ Ibid., 1339.

⁸⁴ Ibid.

As Buchanan confronted the subjectivity that entered the scene through notions of unrestrained masculinities and femininities that were qualified separately by race and class, he arrived at a “double claim” hypothesis through which slaves deserved the same level of legal protections as women.

The final aspect of Buchanan’s opinion was concerned with the decision of the case, itself. As such, Buchanan ended his judgment by reversing the decision of the Madison Parish jury. He awarded the Humphreys brothers \$508.83, in order to cover the wages they paid Henry Utz during the months he was in their employ. This action was to “serve as a salutary example” of how a decision like this should be made.⁸⁵ As Buchanan found Utz not at fault for the death of Ginger Pop due to a lack of substantial evidence in his opinion, he refused to award any damages to the Humphreys on this account. Thus, Buchanan aptly eluded the need to clarify the question of how much an “incorrigible runaway,” whose acts of self-possession emasculated any and all white men above him, should be worth.⁸⁶

The intricacies, hypocrisies, and conflicts contained within the transcript of *Humphreys v. Utz* show that the gendered identities of men in the antebellum plantation South grasped at meaning through acts of possession; these actors planned, practiced and performed their own organic scenes of intimate reality. Power, ownership, independence, and subjection, while intimately functioning to shape the appearance of southern masculinities, existed as outcomes of man’s attempts at self-possession, possessing

⁸⁵ However, as the case would go unreported, this would not be possible.

⁸⁶ Schafer, “Sexual Cruelty to Slaves: The Unreported Case of *Humphreys v. Utz*,” 1339.

someone else, or something else, which by some confluence of forces—gender, race, and class—had come into conflict among them. From this departure, masculine hegemons came to fight, torture, kill, and maim for whatever it was; some won their battles, others did not.

After Justice Buchanan penned his decision, the exact question of where the Court would stand in this case remained. And as it would happen, the Court refused to stand anywhere. As *Humphreys* went unreported, the question still endures: how much would the value of an enslaved black man have depreciated if he had asserted himself as a man, and therefore a divergently masculine equal to those who oppressed him? Any definitive answer to this question given by the officers of a Southern supreme court would have exposed the system's deep cracks outright. If the Court would have recognized Ginger Pop's enduring ability to achieve self-possession and remasculation, it meant that when existing in the capacity of valued property, slaves could have made themselves invaluable as human beings—beings with relentless gendered identities. On the other hand, if Ginger Pop had been deemed worthless, any kind of paternalistic protection he would have been due as a slave would have been nullified. Thus, one of the planters' greatest justifications of the system would have been invalidated by the highest court in the state—a hegemonic institution originally intended to protect their possession.

Furthermore, if we look at the conflict between the Humphreys brothers and Henry Utz, their story seems to increasingly convolute our understandings of the political union that white men shared in the antebellum South. While the hegemonic political and legal system sought a reckoning between them, Southern white men in disunion clashed across

class lines in order to possess the other as late as the final decade before secession.

Under this flame, the cracks were ever fracturing through the 1850s.

Although the Humphreys brothers received damages in regard to Utz's treatment of their property, they did not regain the possession of their slave in any manner. While Henry Utz had temporarily gained possession of Burkland, it was reconquered not only by the planters who possessed his labor, but also by the law, which regulated and supported the planters in this possession. In the end, Ginger Pop came out with nothing, or everything, depending on how you looked at it. While Utz had continually repossessed him after every attempted escape, the overseer also freed him from the chain that physically and symbolically held him down. Breathing his last breath of air, Ginger Pop and his identity could no longer be a prop knife in the hands of quarreling white men.

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BIOGRAPHY

I was born in St. Petersburg, Florida, and I have been privileged to be raised as the son of my parents. My father is an attorney who fights and beats big tobacco, but before he became a lawyer, he was a pilot in the United States Navy. My mother is a paralegal, who works for my father, but this in no way defines her, as he could not carry on without her innumerable talents and commanding presence in his office. Together—never alone—they succeed. And, they have succeeded in raising me with the desire to think critically about the world around me and to work in some form or fashion to make it better.

This aspiration has carried me forward through my undergraduate and graduate years. As I write this biography, I have been a Naval Officer for only six months; I have not yet hit the fleet. I am soon to enter flight school in November 2014, and I hope to be pinned a Naval Aviator two years from now. In a similar path to that of my father, I hope that I may someday live up to what both he and my mother have achieved.

Looking critically at the world requires a deep sense of the processes that caused it to be; that notion is what led me to the study of history. I hope that my efforts at understanding masculinities in the past will help me face the problems that have risen and will continue to manifest in a society that to various extents remains at odds with gender equality, as well as with racial and social equality.